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# JUSTICE SYSTEM REFORM ACTIVITY

## THIRD QUARTERLY REPORT 2005

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### **DISCLAIMER**

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

## ***Introduction***

### ***Court Administration***

For the past year, NCSC has worked very closely with UNMIK, USAID, and other judicial sector actors on the transition of the competencies for the judiciary from UNMIK to PISG. In August, UNMIK announced its planned timeline for transition, and since that time, NCSC has worked on achieving the scheduled timeline. Initially, UNMIK has planned to complete transition by early next year. It is likely to be delayed because of various political considerations that need to be taken into account. However, NCSC has been working with UNMIK to ensure a smooth and well planned transition of the judiciary.

As a part of the transition process, parts of the DJA will be transferred into new AOC under the KJC. In order to ascertain what functions of the DJA can be transferred to the AOC, NCSC has worked with DOJ and DJA to complete a financial audit of DJA, met with members of the Office of the Prime Minister on the budget for the courts, provided input on the structure of the future court system, and initiated a review of the business practices of the courts. NCSC has also put together job descriptions for the AOC and has been conducting an ongoing job/task analysis of the DJA.

In August, UNMIK officially requested assistance with a financial audit of DJA before the transition of the department. NCSC staff and consultants had previously held discussions with DOJ about such an audit of DJA, but only recently did NCSC receive an official request from the necessary individuals. NCSC will assist DOJ with locating funding for such an audit as DJA does not have the funds to perform the audit. The likely sources are various donors. NCSC also plans to provide guidance and opinions on the conduct of the audit.

NCSC COP and DCOP met with Azem Hajdari and members of the Prime Minister's transition committee to discuss NCSC's activities and how NCSC could serve PISG during transition. The meeting established a link between NCSC and the PISG transition committee. NCSC met with USAID officials at the initial meeting to explain the type of assistance provided by USAID and its contractors, i.e. consultation, technical assistance, and advice over direction and orders. In addition, NCSC shared updates on the current work performed by the project and what additional work the project staff can perform. In a follow-up meeting, the PISG committee members requested assistance regarding the staffing levels at DJA. NCSC has since provided a letter commenting on staffing levels required of DJA to assist in PISG's request for DJA in the Kosovo Consolidated Budget.

The DCOP Drafted a response to the Prime Minister's Office representative's request for NCSC's recommendations on AOC staffing for 2006. Project staff recommended that the current staffing levels, at a minimum, be kept. Because of the short timeframe for getting recommendations, 1 day, after this initial budgeting period is completed, the government should address a comprehensive staffing plan for the AOC and DJA for the next year. The recommendations were used to establish an operating budget for next year.

The DCOP attended an NCSC-hosted DOJ workshop with district court and municipal court president judges on DOJ's satellite court proposal. The current proposal will not reduce the number of judges necessarily, but increase the amount of time judges spend

in busier courts and less time in courts that do not have as large a caseload. The DCOP will continue to work on this as it progresses.

In September, NCSC fielded consultants from Alfa XP to map the business processes of the courts. The initial meetings progressed well. The consultants have begun working on their report and will present it when they return to Pristina in November. At this point, preliminary information from the reports has been helpful to understand the current court processes.

### ***Caseflow/Case Management***

A top priority of UNMIK during transition is gaining a full understanding of the status of backlog and current cases in the courts. To do this, NCSC is working with UNMIK/DOJ to create a plan to track the backlog and provide a simple case management information system until the EAR-funded system is complete.

In August, UNMIK/DOJ requested assistance with the creation of a basic, interim case tracking system. NCSC DCOP has begun working with DOJ and EAR on creating such a system so as not to interfere with the eventual roll-out of the Pronet system. In fact, the interim case tracking system would likely easily fold into Pronet through a simple transfer in data from this interim system. It is likely that the interim system will be installed on individual, stand-alone computer terminals since the courts are, at this point, not connected to one computer network, unless a solution using the internet is created. This will require a great deal of time as each court will need to have the system installed on a local computer and each court will need to receive individual training. NCSC DCOP also discussed the status of the case tracking/judicial evaluation system designed in the statistics division of DJA. The creation of this system has been delayed, according to the division head, while he waits for more information and direction from the KJPC.

In addition to the interim information system, the DCOP worked with project staff on the statistical report for the Caseflow Management /Delay Reduction Report. The DCOP also met with Elizabeth Rolando, DOJ/JDD and other DOJ/JDD staff members to provide recommendations on the pending caseload (backlog) data gathering. With the JIU charged with leading the pending caseload data collection, John Furnari attended as well. The NCSC project staff provided information on techniques for getting information from the courts, explained what it can be like to gather this data, and mentioned potential pitfalls that many people have incurred on other data collection projects.

### ***Other***

In the past quarter, NCSC participated in the public hearing on the Kosovo Judicial Institute law. NCSC provided comments on the law on behalf of USAID. The public hearing was intended to allow all interested parties to comment on the current draft of the law, which has received some amount of criticism in recent weeks.

NCSC hosted a meeting with the committee responsible for judicial affairs in the Kosovo Assembly. The meeting was intended to give the committee an orientation with the law on courts, the current status of the law, and explain the current plan for completion. The meeting was well attended and the information provided to the committee was well appreciated and received.

### ***JIU Audit Section***

The Audit Section Advisor (ASA) recently chaired the hiring committee responsible for selecting 2 Senior Judicial Auditors (SJA) and 1 Judicial Auditor (JA) post. The ASA led a short-listing process, reducing the field of candidates from 47 to 12 persons (6 candidates each for SJA and JA posts). Following the short-listing process, with assistance from JIU's existing Judicial Auditors, JIU wrote a new exam for this round of candidates. The exam was administered in mid-August and interviews followed.

After the testing and interview process, the ASA extended offers to 3 successful candidates. Each candidate did not immediately accept the positions offered, but after negotiations, each individual agreed to begin work on October 1.

The ASA had less success filling the final position of Audit Coordinator. The advertisement yielded only 2 applications, and the ASA has since re-advertised the position. In addition, to create more applicants, the ASA has begun networking to convince certain individuals to apply for the position through the proper channels. This position is extremely important to the operations of the Audit section and will be a priority for the ASA in the upcoming months until filled.

As the 3 month probation period of the 3 JAs drew to a close this quarter, the ASA conducted individual assessments of their performance and concluded that all 3 JA's were deserving of long term contracts. DOJ/JDD has adopted the ASA's positive assessment, and thus all 3 JA's have signed long term contracts. The JA's new employment status triggered the start of their first performance assessment period (1 July through 30 Sept.). Accordingly, the ASA held individual meetings with JA's to reach agreement on what the focus of their individual duties shall be for the stated period.

The ASA presented a proposed judicial reappointment process to DOJ Director and to USAID in an effort to secure international funds needed for a 10 month vetting process intended to address the fact that all judicial appointments will expire with the departure of UNMIK. The ASA also presented the plan to EAR and EU representatives for a similar purpose. Feedback and concerns of potential donors are being taken into consideration. All agree that such an endeavor cannot commence until a finalized Law on Courts settles crucial questions regarding: 1) number and placement of courts; 2) ToRs of judges in the new court system.

In late August, JIU Audit was tapped by JDD to assist the Professional Development Section (PDS) of JDD and the KJPC with the judicial recruiting process involving the selection of 34 judicial candidates from 60 judicial candidates. Each of the 60 candidates passed through an ILEP program including a qualifying judicial exam (created by KJI) and a subsequent KJI training. The ASA was asked to complete 2 supplemental judicial application forms (regarding property law compliance, and financial disclosure). The ASA researched and completed these forms and subsequently each was approved by JDD in early September. Once approved, the ASA tasked the Audit staff to assist with the distribution and collection of the forms from all judicial candidates.

More importantly, JIU Audit staff reviewed all judicial candidate applications to confirm that each candidate had indeed provided an answer to every question. Forty (40) of the 60 candidates failed to successfully complete the applications- all of which were required to return to JDD and complete their applications. All were reminded that a failure to do

so would disqualify them from consideration. This process took place in an effort to ensure that the Professional Standards Unit (PSU) – within the UNMIK Commissioner’s Office – would have a complete set of applicant information from which to launch their background investigations of each candidate. The UNMIK/DOJ and KJPC has asked for this background check of new judicial applicants in an effort to raise the bar on ethics and quality in the judiciary.

As JIU Audit staff awaits formal audit training, JDD Head Rolando and the ASA agreed that JIU Audit should be put to work on identifying the nature of backlog in the courts. Given the potential contentiousness of several of JIU Audit’s proposed audits, all agree that a backlog assessment will serve the dual purpose of a) providing KJPC with meaningful data on the types of cases pending for too long a period and the reasons for the delay; b) providing JIU Audit with a less controversial opportunity to view court records and identify appropriate audit topics.

In preparation for this work, on 13 September, the ASA met with Al Szal and appropriate NCSC local staff to discuss recent NCSC efforts to assess the backlog in 10 courts within Kosovo, and some of the problems they encountered. The ASA has briefed the JIU Audit staff on the NCSC meeting and all staff have planned a second meeting with local NCSC staff to discuss the best possible approach to a backlog assessment.